

46 United States Code 2101, the Maritime Transportation Security Act of 2002, and the MTSA Regulations found at 33 CFR Subchapter H.

"The information in this document is for use as an aid to interpretation. Should anything in this document be in conflict with 46 USC, 33 CFR, or CG policy, then 46 USC, 33 CFR, and CG policy determinations control."

Q. What is the legislative basis for the U.S. Coast Guard's International Port Security Program (IPSP)?

Ans. Sections 70108-70110 of the Maritime Transportation Security Act (MTSA) of 2002, directs the Secretary of the Department to which the U.S. Coast Guard is assigned, to assess the effectiveness of antiterrorism measures implemented in foreign ports from which U.S. documented vessels and foreign vessels depart on a voyage to the U.S. and any other foreign ports the Secretary believes poses a security risk to international maritime commerce.

Q. How will the IPSP function?

Ans. The U.S. Coast Guard's IPSP aligns the domestic Maritime Transportation Security Regulations with the requirements of the International Maritime Organization's (IMO) new regulation the International Ship & Port Facility Security (ISPS) Code or XI-2/1 of SOLAS 74 as amended. This alignment helps domestic and international maritime stakeholders to better understand how each country and their ports implement maritime security measures through an exchange of good ideas and best practices information.

To conduct the information exchange, U.S. Coast Guard Port Security Liaison Officers will be assigned at strategic locations throughout the world. In addition, an IPSP Team has been established at U.S. Coast Guard Headquarters in Washington DC.

Q. When will the Coast Guard commence its visiting program to foreign countries?

Ans. Outreach to foreign countries began in late 2003 in anticipation of the July 1, 2004 entry into force date of the International Maritime Organization's (IMO) new regulation the International Ship & Port Facility Security (ISPS) Code or XI-2/1 of SOLAS 74 as amended.

Typically, a visit to a foreign country and its ports has included an observation of the:

- Port facility vulnerability assessment and the security plan approval process.

- Vessel vulnerability assessment and the security plan approval process leading to issuance of the International Ship Security Certificate.
- Security measures in place at a representative port or series of ports to verify compliance with the ISPS with particular emphasis on access control, cargo & personnel screening, and the overall security program management.

Beginning in July of 2004, the U.S. Coast Guard IPSP will engage in bilateral or multilateral discussions to ensure alignment of our domestic maritime security practices with the IMO standards as well as other international security standards and to share best practices information with countries and their ports that trade with the U.S.

Q. What criteria will be used to determine which countries will be visited and how will the timing be determined?

Ans. All countries that originate cargo bound for the U. S., service U. S. flagged vessels, or from which vessels depart destined for U. S. ports will be considered for an in country visit.

A methodology has been developed that will assist in determining the priority for a port security visit. The methodology takes into account the number of vessels that arrive in the U. S. from that country, the amount and type of cargo being shipped, the economic criticality of the cargo to the U. S., the threat manifested in the port state, the size of the country's flag state fleet, and its port state control detention history.

In order to develop a widely acceptable process that incorporates current information, intelligence, and best practices the Coast Guard is developing a selection matrix and survey protocol that will draw on the experience acquired regarding development of threat level assessments in U.S. Mega-ports.

Q. If a ship arrives in the United States from a port or a country that you have determined is not in compliance with the IMO standards, what are the consequences?

Ans. There are a variety of potential consequences. At a minimum, the vessel will be subject to a boarding offshore before being allowed in the United States. Additional restrictions may be imposed regarding the transit of the vessel. The vessel may be able to ameliorate some of the consequences by going to a higher security level while in a non-compliant port.

Q. If a country or port is found to be noncompliant with the ISPS Code security requirements, will that information be made available to the public?

Ans. Yes. The Maritime Transportation Security Act requires the Secretary of the Department to which the USCG is assigned to make a public notification if the Secretary finds that a port is not maintaining adequate security measures.

Q. Will you allow other countries to review anti-terrorism security measures in U.S. ports?

Ans. Yes. The United States will encourage reciprocal visits by other countries to verify our compliance with the ISPS Code security measures.

Q. If a privately operated port in a country undertakes good security measures, but the country as a whole is not fulfilling its international security obligations, will vessels arriving from that port be subject to more extensive port state control actions?

Ans. Yes. The obligations under the SOLAS are the responsibility of the Contracting Government and are broader than just the security measures at a specific facility. If that government is not fulfilling its international security responsibilities, it calls into question the security at ports in its territory.

However, a decision to implement port state control actions is a complex one involving several criteria including ISPS code compliance. Furthermore, the nature of the port state control actions will vary depending on the circumstances. If security at a particular facility is high we may consider that factor as we tailor specific port state control actions to be taken.

Q. Will the U.S. Coast Guard publish an assessment checklist so that countries can prepare for the assessment?

Ans. As each country's situation may be different in regards to how they implement the SOLAS requirements, a universal "checklist" is not appropriate. We will, however, publish information in a Navigation and Vessel Inspection Circular regarding how the USCG will conduct visits and the areas we will want to explore with countries.

Q. You indicate that the USCG will accept a country's interpretation of the ISPS Code provided that it meets the intent of SOLAS. What do you mean? What are the minimum standards for "meeting the intent" of SOLAS?

Ans. Because the ISPS Code is performance based, "minimum standards" as such cannot be pre-determined. The intent of the ISPS code is to ensure that security threats can be detected and that preventative measures can be taken. U.S. Coast Guard personnel who will visit foreign countries will be experienced in port security matters and will exercise good judgment as the basis for reasonable

decisions. It is not a USCG desire to “shut ports down.” The USCG will work collaboratively with U.S. trading partners to universally improve maritime security.

Q. When the USCG visits a country to observe security measures will you demand to see the Port Facility Security Plan?

Ans. The USCG recognizes that portions of the facility security plan will be sensitive. As part of our information exchange, we believe it is important to look at the written guidance and policies that countries are using. Part of that information will inevitably be located in the facility security plan so we would expect to look at the non-sensitive parts of the plan. As the visit progresses, and depending on what specific conditions are observed, we may ask to review sensitive portions if it will be helpful in clarifying matters of non-compliance or in assisting in improving the security practices.

Q. Will the USCG accept “assessments” of ports conducted by other entities such as the European Commission, or APEC in lieu of USCG visits?

Ans. Inasmuch as we do not know the scope or methodology of such assessments, the USCG cannot commit to acceptance of such assessments at this time. We do not that idea however, oppose the idea and would be interested to dialogue on the subject with other like-minded organizations.

Q. Large ships don’t dock at my facility, they anchor offshore and only their tenders actually come to the dock. Do I have to comply with the ISPS Code?

Ans. Yes. The ISPS Code is concerned with the Ship/Port interface. Since tenders are interfacing with both the large ship and the dock, the operation should have a port facility security assessment and should be covered by a port facility security plan.

Q. Since large ships don’t dock at my facility but only their tenders, can I provide a lower level of security?

Ans. The level of security must meet the intent of the ISPS Code taking into account the local situation. For example, the port facility security plan could outline what steps the facility will take, the steps the vessel is expected to take, and also require that a Declaration of Security be executed to clearly define additional steps the vessel may be required to take.

Q. How will you treat vessels that come from ports in Non-SOLAS countries?

Ans. Essentially, no differently than a SOLAS vessel. It is our expectation that all countries with ports whose vessels arrive in the U.S. or to which a U.S. vessel

visit will implement the measures called for in the ISPS Code whether signatory to SOLAS or not. The USCG is communicating this to Non-SOLAS countries that have such ports. We are asking them to provide the USCG the same type of information that SOLAS countries will be providing to the IMO. If a SOLAS signatory country fails to provide the required information to the IMO, or if a non SOLAS country fails to provide the required information to the USCG, vessels that come to the U.S. from a port in that respective country will be subject to port state control measures, up to and including denial of entry to the U.S.

Q. How will a vessel operator know if a port of call has implemented the required security measures and has been approved by the Coast Guard?

Ans. The Coast Guard will not “approve” ports. There will be no list of approved ports and we will not publicize the list of all the countries and ports that we visit. The USCG will however, notify the public of ports that we find are not maintaining effective anti terrorism measures through our website and the U.S. Federal Register system. In addition, the International Maritime Organization will maintain a database of all countries that have communicated the required information regarding which port facilities in their country have approved port facility security plans. This information should be available from the respective flag state.

Q. What will happen if the security at my port terminal is good, but security in the rest of the port is sub-standard, or the contracting government is not fulfilling its responsibilities? Will ships that come from my terminal be subject to the port state control measures by the USCG?

Ans. The contracting government determines the adequacy of port facility security. Depending on how broadly they define the port facility, a specific terminal may or may not be affected. For example, if your terminal is relatively isolated, the contracting government may designate your terminal as a single port facility, and that it is compliant with ISPS, and thus vessels would not be affected. If however, your terminal is closely located to other terminals in the port, the contracting government has determined that the entire complex is a port facility, and that the port facility as a whole is not compliant, then vessels arriving from your terminal would be affected.

Q. Will there be an appeal process for private firms to appeal a determination that a port or country is not maintaining effective anti terrorism measures?

Ans. There is no "appeal process" for private industry to appeal a sponsor country determination regarding implementation of ineffective security measures. The obligation to implement the international security standards falls to governments, and the USCG International Port Security Program looks at how the country's government, either directly or through a designated authority is implementing the provisions of the ISPS Code. Because the ISPS Code is performance based, we

recognize that compliance with it can be achieved in a variety of ways. In cases where the USCG believes that a country is not implementing the provisions of ISPS, we will be entering into a continuous dialogue with that government to resolve the issues.

Q. Does the International Ship and Port Facility Security (ISPS) Code require Contracting Governments to communicate any information about the status of approved port security plans for port facilities located within their respective territory?

Ans. In accordance with the International Ship and Port Facility Security (ISPS) Code and SOLAS Amendments, Chapter XI-2 Regulation 13.3, contracting governments shall, not later than 1 July 2004, communicate to the International Maritime Organization (IMO) a list showing the approved port facility security plans for the port facilities located within their respective territory.

Q. Where can information about the status of approved port facility security plans for the port facilities located within the domestic United States be found?

Ans. The United States Coast Guard has provided to the International Maritime Organization, information regarding approved port facility security plans for facilities within the United States. The IMO database is accessible via the internet at <http://www2.imo.org/ISPSCode/ISPSInformation.aspx>. Select “Public Logon” then scroll to the desired Country, select “Ports and Port Facilities”. If a vessel owner or operator is looking for more specific information regarding a particular port facility, they should work through the company agent, Facility Security Officer, or the U.S. Coast Guard COTP/FMSC in that order.